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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/536,848	05/31/2005	Benjamin Novi	BAI525-20206230	6218
24118 7590 04/01/2009 HEAD, JOHNSON & KACHIGIAN 228 W 17TH PLACE TULSA, OK 74119				
EXAMINER				
SHIBRU, HELEN				
ART UNIT		PAPER NUMBER		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/536,848

**Applicant(s)**

NOVI, BENJAMIN

**Examiner**

HELEN SHIBRU

**Art Unit**

2621

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 December 2008 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/5508)
- \_\_\_\_\_ Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)
- \_\_\_\_\_ Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. The amendments, filed 12/24/2008, have been entered and made of record. In view of the Applicants' amendments to drawings 2-3, the objection to drawings 3-6 are hereby withdrawn. However the objection to Figure 1 is sustained because neither the specification nor the drawing state or show what the designated number 10 represents.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 1-7 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-7 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 1 and 7 recites in lines 4-5 "...identifying (identify) a program to be recorded via user... prior to receipt of the television program." Applicant pointed out that the support for the above limitation can be found in page 5 lines 31-33, however the cited portion nor other portion of the disclosure teaches identifying a program to be recorded '*prior to receipt of the television signal*' (emphasis added). Here keep in mind also that the television signals, as recited

in at least claim 1, comprises a program and program information. The amended claim is not specific to which one of the above two signals comprised by the television signal is received prior.

***Drawings***

5. Figures 1 is objected to under 37 CFR 1.83(a) because the figure fail to show legends designating numbers as described in the specification (see the above response as well). Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hennig (US Pat. No. 5, 956, 455) in view of Jackson (US Pat. No. 5,963,264).

Regarding claim 1, Hennig discloses a method of recording a program comprised in a television signal, the television signal comprising program information including the real starting hour of at least a following program, said method comprises the steps of: memorizing a theoretical starting hour of the program to be recorded (see figure 2, col. 3 lines 53-63); defining, among the following programs, a retained program satisfying a criterion of concordance relating to at least the memorized theoretical starting hour of the program to be recorded (see col. 4 lines 5-15 and claim 1 lines 40-44); identifying the real starting hour of the following program included in an event information table in the program information comprised in the television signal (see col. 4 lines 39-61); upon receipt of said real starting time, automatically replacing the theoretical starting time by the real starting time if there is a difference between said times (see claim 1 line 33-44); and receiving and recording the television signal on the basis of the real starting hour of the retained program (see col. 7 lines 8-33).

Claim 1 differs from Hennig in that the claim further requires identifying a program to be recorded via user interaction with an electronic program guide generated by a decoder prior to receipt of the television signal.

In the same field of endeavor Jackson discloses identifying a program to be recorded via user interaction with an electronic program guide generated by a decoder (digital satellite receiving system) prior to receipt of the television signal (see abstract).

a digital satellite receiving system (referring to decoder) generating an electronic program guide information wherein the EPG identifies a program to be recorded (see abstract, col. 4 lines 26-32, line 46-54). Jackson further teaches updating electronic programming information (see claim 6 lines 56-58). Therefore in light of the teaching in Jackson it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Henning by using EPG to identify a program to be recorded prior to the presentation time in order to create dynamic widening access.

Regarding claim 2, Hennig discloses transmitted program information includes a real ending hour of the program, characterized in that said method comprises the steps of: searching, during recording of the television signal corresponding to the retained program, a real ending hour of the program in said program information transmitted for the retained program (see col. 6 lines 36-col. 7 line 7), and stopping the recording at said real ending hour of the retained program (see col. 3 lines 53-63, col. 8 lines 4-9 and claim 1).

Regarding claim 3, Hennig discloses transmitted program information includes an indicator of the development of the present program, characterized in that said method comprises the steps of: following said indicator of the development of the present program (see fig. 5. col. 6 lines 12-35 and claim 2), and stopping the recording of the television signal during the absence of the indicator of the development of the present program in said transmitted program information (see col. 8 lines 40-44).

Regarding claim 4, Hennig discloses transmitted program information includes a real ending hour of the program, characterized in that said method comprises a step of memorizing a theoretical ending hour of the program to be recorded, and in that said concordance criterion also relates to the memorized theoretical ending hour of the program to be recorded and to the real ending hour of the retained program in the program information comprised in the television signal (see col. 6 lines 36-col. 7 line 8).

Regarding claim 5, Hennig discloses concordance criterion is defined, for example, by the existence of a temporal overlap between the broadcast timetable for the following program and that defined between the theoretical starting hour and the theoretical ending hour whose duration exceeds the broadcast timetable of the following program by more than 70% (see col. 4 lines 5-34 and col. 6 lines 12-35, *100% is more than 70%*).

Regarding claim 6, device claim 6 is rejected for the same reasons as discussed in method claim 1 above.

Regarding claim 7, the limitation of claim 7 can be found in claim 1 above. Therefore claim 7 is analyzed and rejected for the same reasons as discussed in claim 1 above. See also figure 1 and col. 3 lines 33-40 in regard to the decoder and the means for controlling.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Beach et al. (US PG PUB 20040013409) adjusting recording start and end time.

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HELEN SHIBRU whose telephone number is (571)272-7329. The examiner can normally be reached on M-F, 8:30AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, THAI Q. TRAN can be reached on (571) 272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



/HELEN SHIBRU/  
Examiner, Art Unit 2621

/Thai Tran/

Supervisory Patent Examiner, Art Unit 2621